



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN WAITE, an individual; JOE ELY, an
individual; KASIM SULTON, an individual;
SUSAN STRAW HARRIS p/k/a SYD STRAW,
an individual; LEONARD GRAVES PHILLIPS,
an individual; STAN SOBOL a/k/a STAN LEE,
an individual; STEVE WYNN, an individual;
DENNIS MEHAFFEY p/k/a DENNIS DUCK,
an individual; and DAVID PELLISH p/k/a
DAVE PROVOST, an individual; and on behalf
of all others similarly situated,

Plaintiffs,

v.

UMG RECORDINGS, INC., a Delaware
corporation doing business as Universal Music
Group; CAPITOL RECORDS, LLC, a Delaware
limited liability company; and DOES 1 through
10,

Defendants.
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Case No. 1:19-cv-01091(LAK)

**STIPULATION OF DISMISSAL
WITH PREJUDICE**

WHEREAS, on February 5, 2019, plaintiffs John Waite (“Waite”) and Earle R. Ely, Jr. p/k/a Joe Ely (“Ely”) filed a putative class action Complaint against defendant UMG Recordings, Inc. (“UMG”) for copyright infringement and declaratory relief;

WHEREAS, on June 5, 2019, plaintiffs Waite, Ely, Kasim Sulton (“Sulton”), Susan Straw Harris p/k/a Syd Straw (“Straw”), Leonard Graves Phillips (“Phillips”), Stan Sobol a/k/a Stan Lee (“Sobol”), and Israel Caballero (“Caballero”) filed a First Amended Complaint against UMG for copyright infringement and declaratory relief;

WHEREAS, on March 31, 2020, the Court issued a Memorandum Order in which it, among other things, dismissed Waite’s claims in the First Amended Complaint;

WHEREAS, on August 31, 2020, plaintiffs Ely, Kasim, Straw, Phillips, Sobol, Steve Wynn (“Wynn”), Dennis Mehaffey p/k/a Dennis Duck (“Mehaffey”), and David Pellish p/k/a Dave Provost (“Pellish”) (collectively, and excluding Ely, the “SAC Plaintiffs”) filed a Second Amended Complaint against UMG and Capitol Records, LLC (“Capitol,” and together with UMG, “Defendants”) for copyright infringement and declaratory relief;

WHEREAS, on January 27, 2023, the Court issued a Memorandum Order in which it denied the SAC Plaintiffs’ Motion for Class Certification;

WHEREAS, on February 10, 2023, the SAC Plaintiffs filed a Petition for Permission to Appeal Order Denying Class Certification with the United States Court of Appeals for the Second Circuit; and

WHEREAS, Capitol and Waite have entered into a confidential settlement agreement that fully and finally resolves Waite’s claims against Defendants;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for Waite and Defendants, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and subject to Court approval under Fed. R. Civ. P. 23 that:

Waite dismisses the entire above-captioned action with prejudice solely as to Waite and Waite's claims against defendants UMG, Capitol, and DOES 1 through 10. This Stipulation of Dismissal with Prejudice has no bearing on and shall not impact or affect in any manner the claims of the SAC Plaintiffs and/or any members of the putative class as against defendants UMG, Capitol, and/or DOES 1 through 10, or Capitol's counterclaims against Straw.

Dated: New York, New York
May 17, 2023

Respectfully submitted,

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*Attorneys for Defendants UMG Recordings,
Inc. and Capitol Records, LLC*

IT IS SO ORDERED:

/s/ Lewis A. Kaplan

U.S.D.J. Lewis A. Kaplan
Dated: 5/19/2023